



Order Decision

by Helen Slade MA FIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 20 January 2020

Order Ref: ROW/3236212

- This Order is made under Section 119 of the Highways Act 1980 ('the 1980 Act') and is known as the North Yorkshire County Council Bridleway 15.55/78 Owen Well House, Summerbridge Diversion Order 2019.
- The Order is dated 28 January 2019 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule.
- There were two objections outstanding when North Yorkshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to the modifications set out below in the Formal Decision.

Procedural Matters

1. The two objections to this Order both relate to a drafting error in the Order itself. The path to be created by the Order is stated in paragraph 2 to be a public footpath when in fact the Order relates to the diversion of a bridleway.
2. The North Yorkshire County Council ('the Council') has requested the confirmation of the Order with the necessary modification to replace the word 'footpath' with the word 'bridleway'. The two objectors, Lady Elizabeth Kirk and Caroline Bradley, have both withdrawn their objections on the basis that this change is made.
3. There are no other objections to consider.

The Main Issues

4. Although there are no objections to the principle of the Order, as it has been submitted to the Secretary of State for confirmation I need to be satisfied that the relevant criteria have been met.
5. Section 119(1) of the 1980 Act states that an Order can be made where it is considered by the authority that it is expedient in the interests of the owner, lessee or the occupier of land crossed by the path or way, or of the public, that the line of the path in question should be diverted. Section 119(6) of the same Act states that, if I am to confirm the Order, I too must be satisfied in this respect. This Order has been made in the interests of the landowner. Before the Order can be confirmed I must therefore be satisfied on that point, and also satisfied that the path will not be substantially less convenient to the public as a consequence of the diversion.

6. If I am satisfied on the above points, I must then consider whether it is expedient to confirm the Order, having particular regard to the following issues:
- a) the effect that the diversion would have on public enjoyment of the path as a whole;
 - b) the effect of the coming into operation of the Order on land served by the existing right of way; and
 - c) the effect of the new public right of way on the land over which it is created (or land held with it);
- having regard also, with respect to b) and c), to the provisions for compensation as set out in Section 28 of the 1980 Act, where appropriate.
7. No relevant material provisions of the Rights of Way Improvement Plan produced by the Council have been brought to my attention.

Reasons

8. In the absence of any objections, and following my examination of the papers on the file, I am satisfied that the Order meets the necessary criteria for confirmation, as set out above.
9. Nevertheless, I agree with the objectors that it is most regrettable that a drafting error has been made in the Order requiring the modification to be made. The Council considers that the inclusion of the word 'footpath' is a 'small wording error', but I cannot agree. I accept that the title of the Order, both parts of the schedule, and the Order plan include the relevant references to the path concerned being a bridleway, but the error in the wording is in paragraph 2 of the actual Order itself. Without the modification, the Order would be incorrect.

Conclusions

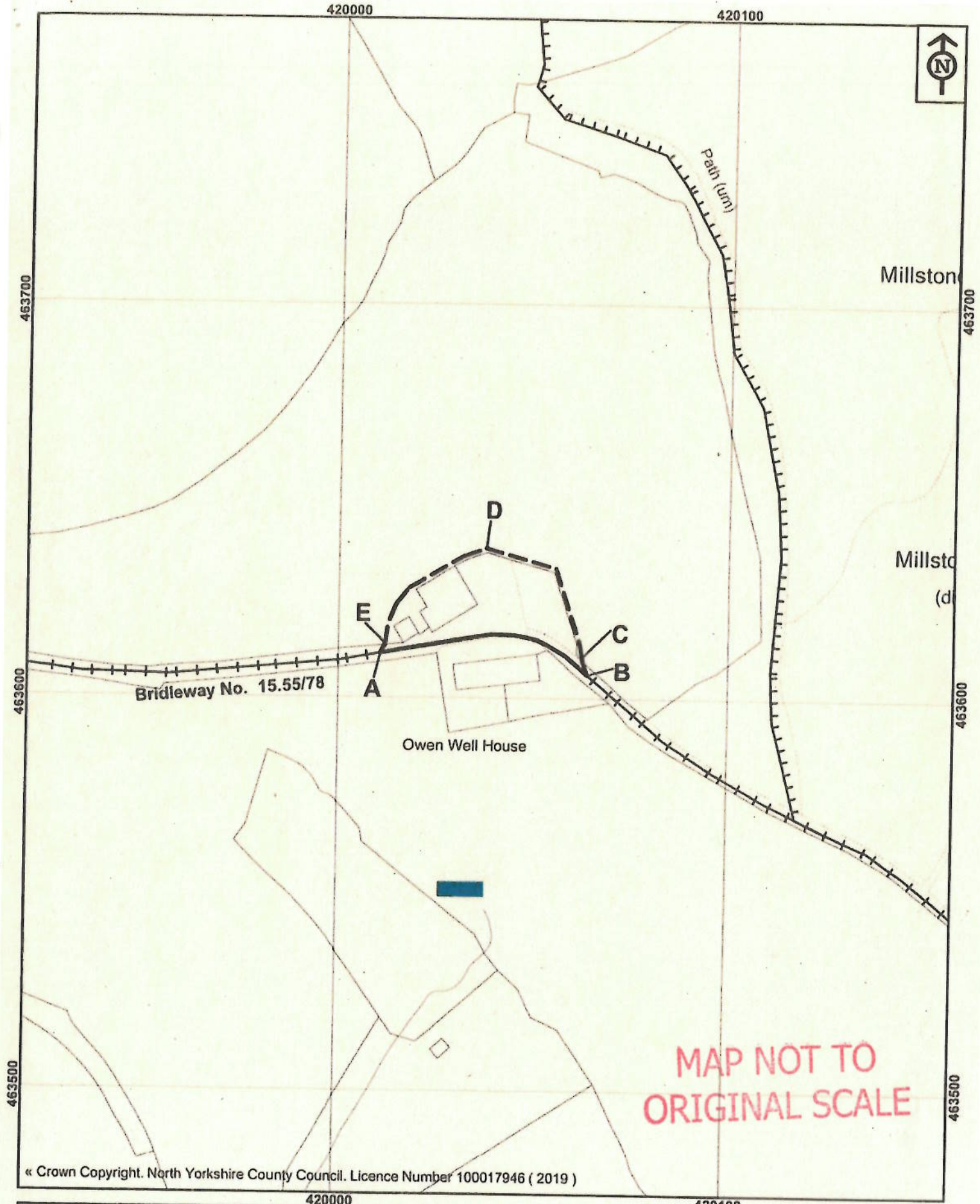
10. Having regard to these and all matters raised in the written representations I conclude that the Order should be confirmed with a modification that does not require advertising.

Formal Decision

11. I confirm the Order subject to the following modification;
- In paragraph 2 of the Order delete the word 'footpath' and substitute the word 'bridleway'.

Helen Slade

Inspector



MAP NOT TO ORIGINAL SCALE

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**North Yorkshire
County Council**

Public Rights of Way
Waste and Countryside Services
County Hall
Northallerton
DL7 8AH

Key:	
Bridleway to be added	-----
Bridleway to be deleted	=====
Other footpaths	+++++
Other bridleways	+ + + + +

Map drawn on 25 January 2019
Drawn by ML Scale 1:1250

North Yorkshire County Council

Highways Act 1980 Section 119
Bridleway No. 15.55/78
Owen Well House
Summerbridge
Diversion Order 2019

File Ref No. HAR/2017/11